

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



OFFICE OF ENVIRONMENTAL INFORMATION

MEMORANDUM

DATE: July 15, 2016

SUBJECT: Ratification of Services rendered to EPA by McNeal Professional Services, Inc.
for its services during Option Year One and Option Year Two of Contract EP-W-
13-007

FROM: Maja Lee, Director
Enterprise Desktop Services Division (EDSD)
Office of Environmental Information (OEI)

THROUGH: Lottie M. Plater, Manager
National Procurement Service Center (NPSC)
Office of Acquisition Management (OAM)

TO: Dennis J. Bushta, Contracting Officer (CO)
Office of Acquisition Management (OAM)

In accordance with EPA Acquisition Regulation 1501.602-3 and EPAAG 1.6.2.5—*Ratification of Unauthorized Commitments*, please find our request for resolution of the above-referenced requisition as has been received by the Office of Acquisition Management (OAM). Goods/services were received by the Government without issuance or reissuance of an order, written or verbal, by an unauthorized individual in the program office acting on behalf of the Government. PR-OEI-16-00690 for 31,614.41 has been created via EAS to resolve the attached invoices.

- (1) Services were necessary and the Government benefited from receiving services as outlined below.

The Agency entered into an acquisition with McNeal Professional Services effective date

9/12/13 with option year periods of performance through 9/30/2018. Total estimated ceiling of \$440,137.67. The BASE contract amount was for \$331,552.83 which was the hardware/installation of the new Distributed Antenna System (DAS) at Potomac Yards—and there were five Optional Contract Lines/Years to cover the annual maintenance and cellular carrier services.

Apparently the problem is that the contract legally expired after the base period concluded because EPA/OEI CORS/POCs (Herman Hawkins, David Michaels, and Stephen Casey) did not request and/or provide a PR via EAS to exercise Option Period I (extending the contract). The service provider McNeal continued to provide EPA maintenance at Potomac Yards for at least two option year periods.

EPA POCs/CORS assumed the request to exercise Optional years was addressed with OAM via COR Herman Hawkins. The service provider/contractor continued performing and incurring costs under the contract AFTER it expired. The agency is liable for paying McNeal \$31,614.41 for its services since it received a benefit. The work continued with authorization and after the order expired, hence the ratification action against OEI to resolve.

(2) Identify the individual(s) who obligated the Government beyond his or her authority.

EPA POCs/CORS assumed the request to exercise Optional years was addressed with OAM in subsequent months via EPA/OEI CORS/POCs Herman Hawkins and David Michaels.

(3) Describe the pertinent facts and circumstances surrounding this unauthorized procurement.

The Agency entered into an acquisition with McNeal Professional Services effective date 9/12/13 with option year periods of performance through 9/30/2018. Total estimated ceiling of \$440,137.67. The BASE contract amount was for \$331,552.83 which was the hardware/installation of the new Distributed Antenna System (DAS) at Potomac Yards—and there were five Optional Contract Lines/Years to cover the annual maintenance and cellular carrier services.

Apparently the problem is that the contract legally expired after the base period concluded because EPA/OEI CORS/POCs (Herman Hawkins, David Michaels, and Stephen Casey) did not request and/or provide a PR via EAS to exercise Option Period I (extending the contract). The service provider McNeal continued to provide EPA maintenance at Potomac Yards for at least two option year periods.

(4) Describe any harm that would have occurred to the Government had the services not been obtained.

EPA's Distributed Antenna System (DAS) at Potomac Yards was installed/upgraded and subsequently required maintenance of the Neutral Host IT infrastructure. Cellular service within EPA's Potomac Yard would have been lost and/or severely impacted without the

service McNeal performed for the Agency.

- (5) Describe what actions your Division will take to prevent recurrences of unauthorized charges in the future.

The COR (Herman Hawkins) was required recently to commence/complete COR recertification training. Also, OEI is being re-organized effective July 24, 2016 and CORs will be recertified as appropriate in accordance with pre-existing COR recertification schedules. Additionally, EDSD developed and distributed a PR Guidance document that provides information on necessary steps to take and timelines required for proper review/approval of EDSD related acquisitions. The aforementioned has been in place for approximately two years.

- (6) Provide contractor's itemized invoice and/or detailed breakdown of costs if it is available to you.

Enclosed

- (7) If only one source was solicited, a justification for other than full and open competition (JOFOC) is required by FAR 6.302, 6.303 and EPA Acquisition Regulation 1506.303.

The Agency entered into an acquisition with McNeal Professional Services effective date 9/12/13 with option year periods of performance through 9/30/2018. Total estimated ceiling of \$440,137.67. The BASE contract amount was for \$331,552.83 which was the hardware/installation of the new Distributed Antenna System (DAS) at Potomac Yards—and there were five Optional Contract Lines/Years to cover the annual maintenance and cellular carrier services.

Apparently the problem is that the contract legally expired after the base period concluded because EPA/OEI CORs/POCs (Herman Hawkins, David Michaels, and Stephen Casey) did not request and/or provide a PR via EAS to exercise Option Period I (extending the contract). The service provider McNeal continued to provide EPA maintenance at Potomac Yards for at least two option year periods. Unfortunately, unauthorized actions occur. Usually the action benefits the Government. With proper documentation and justification, this can be prevented.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF CRIMINAL ENFORCEMENT, FORENSICS AND TRAINING
NATIONAL ENFORCEMENT INVESTIGATIONS CENTER
P.O. BOX 25227, DENVER FEDERAL CENTER
DENVER, COLORADO 80225

May 30, 2017

MEMORANDUM

SUBJECT: Ratification of Unauthorized Procurement Action

FROM: Erica Canzler, Director
National Enforcement Investigations Center (NEIC)

TO: Keith Stewart, Director
Contracts Administrative Service Center (3803R)

This memorandum is a request for ratification of the following Blanket Purchasing Agreements (BPA): EP-BPA-12-0008 (Matheson Tri-Gas, Inc.), EP-BPA-12-H-0009 (General Air Service and Supply Co.), and EP-BPA-12-H-0015 (AirGas USA, LLC). These three BPAs were to "provide a large variety of compressed laboratory gases, cryogenic gases and associated gas products including recurring rental cost on dwars/cylinders." These gases and associated gas products are used by NEIC chemists as a normal and continuing part of laboratory operations. These three BPAs originally had effective dates that expired on December 31, 2015, with an incentive option through December 31, 2016. The incentive options were exercised on all three BPAs by the US Environmental Protection Agency (EPA), and the BPAs expired on December 31, 2016.

NEIC personnel initiated paperwork on November 28, 2016 for new BPAs to be issued to replace the aforementioned BPAs upon their expiration. Due to an unforeseen series of events and the holidays, the new PRs were not sent to (or received by) the Contracts Office in time for processing in accordance to the Procurement Action Lead Time (PALT).

The new BPAs were issued as follows: EPA-BPA-17-H-0003 (Matheson Tri-Gas, Inc.), EPA-BPA-17-H-0005 (General Air Service & Supply Co.), and EPA-BPA-17-H-0006 (AirGas USA, LLC). These new BPAs were issued with an effective date of April 1, 2017.

During the time between the expiration of EP-BPA-12-0008, EP-BPA-12-H-0009, and EP-BPA-12-H-0015 on December 31, 2016 and the issuance of EPA-BPA-17-H-0003, EPA-BPA-17-H-0005, and EPA-BPA-17-H-0006 with an effective date of April 1, 2017, EPA utilized gas cylinders which had been supplied by Matheson Tri-Gas, Inc., General Air Service and Supply Co., and AirGas USA, LLC to meet our mission with no contract vehicle in place.

In addition to the aforementioned BPAs, an additional BPA is also included in this request for ratification. EP-BPA-12-H-0007 (General Air Service and Supply Co.) was to "provide a large variety of lab supplies, chemicals and equipments which include rental of 1000-

liter ORCA Tank and purchase of Argon Gases and associated items.” This argon gas and associated gas tank are used by NEIC chemists as a normal and continuing part of laboratory operations. This BPA originally had an effective date that expired on December 31, 2015, with an incentive option through December 31, 2016. This incentive option was exercised on this BPA by the EPA, and the BPA expired on December 31, 2016.

NEIC personnel initiated paperwork on May 23, 2017 for a purchase request (PR) to pay for rental of the argon gas tank with a proposed period of performance of June 1, 2017 through May 31, 2018. Therefore, during the time between the expiration of EP-BPA-12-H-0007 on December 31, 2016 and the present, EPA utilized an Argon gas tank which had been supplied by General Air Service and Supply Co. when no BPA authorized the use of this gas tank by the EPA.

NEIC personnel were notified on May 16, 2017 that an unauthorized procurement had occurred and that a ratification needed to be prepared. It should be noted that NEIC utilizes laboratory gases on a daily basis, and had the gas cylinders in question not been available for use by NEIC, no laboratory operations could have occurred during the time period in question. Therefore, NEIC used gas cylinders (which contain the laboratory gases which had previously been purchased by EPA under the original BPAs), under the unfounded assumption that this service was covered under the original BPAs. Unfortunately, this misunderstanding has led to an unauthorized procurement, hence this memo. Since an extension of these BPAs was not authorized prior to the use of the gas cylinders, and the new BPAs had not been issued, I am requesting ratification approval and payment to the following vendors at the indicated amounts:

1. Matheson Tri-Gas, Inc – total of \$3,080.31 (from the following invoices):
 - a. Invoice Number 5111879 (dated 1/31/2017) - \$948.13
 - b. Invoice Number 51143529 (dated 2/28/2017) - \$1,013.18
 - c. Invoice Number 51155139 (dated 3/31/2017) - \$1,119.00
2. AirGas USA, LLC – total of \$576.07 (from the following invoices):
 - a. Invoice Number 9942527371 (dated 1/31/2017) - \$177.83
 - b. Invoice Number 9943258834 (dated 2/28/2017) - \$188.99
 - c. Invoice Number 9944013210 (dated 3/31/2017) - \$209.25
3. General Air Service and Supply Co – total of \$2716.04 (from the following invoices):
 - a. Invoice Number 92181743-1 (dated 1/31/2017) - \$549.32 (Misc gases)
 - b. Invoice Number 92217540-1 (dated 2/28/2017) - \$497.07 (Misc gases)
 - c. Invoice Number 92253632-1 (dated 3/31/2017) - \$502.47 (Misc gases)
 - d. Invoice Number 92181744-1 (dated 1/31/2017) - \$301.52 (Argon)
 - e. Invoice Number 92217541-1 (dated 2/28/2017) - \$272.34 (Argon)
 - f. Invoice Number 92253633-1 (dated 3/31/2017) - \$301.52 (Argon)
 - g. Invoice Number 92289956-1 (dated 4/30/2017) - \$291.80 (Argon)
 - h. Invoice Number TBD (expected date of 5/31/17) - \$300.00 (estimate for Argon)
 - i. Invoice Number TBD (expected date of 6/30/17) - \$300.00 (estimate for Argon)

To ensure that this type of Unauthorized Procurement does not recur, NEIC will develop a tracking system to closely monitor BPA coverage deadlines and notify both management and Contract Officer Representatives of impending action dates. We will also get our PRs over to the Contracts Office in a timely manner for processing in accordance to the PALT time for processing. All managers who have the potential to be involved in such procurements will be advised about this new approach to further ensure that no similar misunderstandings or unauthorized purchases occur in the future.

Attachments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

DATE: June 7, 2017

SUBJECT: Ratification Request for Association of Equipment Manufacturers (AEM)

TO: Keith Stewart, Director
Headquarters Procurement Operations Division

THROUGH: Oscar Morales *Oscar Morales*
Associate Assistant Administrator for Management
Office of Chemical Safety and Pollution Prevention

FROM: Arnold E. Layne, Deputy Director for Management
Office of Pesticide Programs for Management *Arnold E. Layne*

Delores Barber, Director *Delores Barber*
Information Technology and Resources Management Division
Office of Pesticide Programs

Jacqueline E. Mosby, Director *Jacqueline E. Mosby*
Field and External Affairs Division
Office of Pesticide Programs

The Office of Pesticide Programs (OPP) is requesting ratification for charges in the amount of \$1,256.64 to reimburse the Association of Equipment Manufacturers (AEM) for transporting 32 OPP employees from the Potomac Yard building to a Planting Technology Field Demonstration Day on April 26, 2017, in Newburg, MD, and return.

Last year the AEM invited OPP employees to a similar field day for pesticide application technology and provided transportation to and from the site. That demonstration was held at a location outside the 50-mile radius of Potomac Yard, which allowed OPP employees to be on official government travel and obtain travel acceptance ethics approval. AEM offered to pay for the bus again this year. However, this year the location was within the 50-mile radius and therefore, employees would not be on official travel, so could not accept the travel benefit under the Ethics Reform Act of 1989.

As advised by OPP's ethics officer, a purchase request (PR) to reimburse AEM for OPP's share of the cost of the bus was prepared on or about April 18, 2017. OPP's share of the cost of transportation for 32 employees is \$1,256.64, as indicated on AEM's invoice (please see attachment). Using the EPA online "WebForms" application, the PR was routed to funding officials in the Information Technology and Resources Management Division (ITRMD), and then onto approving officials in the Field and External Affairs Division (FEAD) but was delayed and thus, was not timely approved in advance of the trip on April 26, 2017. The PR was approved by FEAD on May 2, 2017. The PR is pending final approval until the results of this request for ratification.

Since this occurrence, we have evaluated our processes and procedures and determined that insufficient backup support in the approval chain process resulted in the need for ratification. Going forward, there will be designated primary and backup funding and approval officials for all OPP purchasing requests. Thank you for your assistance in this matter. If you need additional information, please contact Kennetta Calloway on (703) 305-0066.

Attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 7 2018

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

MEMORANDUM

SUBJECT: Request for Ratification of an Unauthorized Procurement with
Ad Astra for Sign Language Captioning Services Contract:
PR-OARM-18-00431

FROM: Bisa Cunningham, Director
Diversity, Recruitment and Employee Services Division
Office of Human Resources

TO: Keith Stewart, Director
Headquarters Procurement Operations Division
Office of Acquisition Management

This memorandum is to request the ratification and approval of payment of an unauthorized commitment to procure Sign Language Captioning Services with Ad Astra. These services were slated to be funded using \$14,062.50 of fiscal year 2018 funds. The period of performance for these services was from January 1, 2018 to March 31, 2018. Below are the items (1) – (7) as requested:

(1) State if the supplies/services were necessary and if they were for the benefit of the Government.

The captioning services were necessary and benefitted the government. The U.S. Environmental Protection Agency is an inclusive and collaborative agency and is committed to meeting the diverse needs of its staff, and the public participating in public forums facilitated by the EPA. Members of the Deaf and Hard of Hearing (D/HH) community consider the EPA a workplace of choice for providing quality Communication Access Real-time Translation (CART)/ Remote CART that enable them to perform the essential duties of their job, fully participate in social activities, trainings and seminars; and enjoy full access to all the benefits of working at the EPA. These essential services also allow the public to engage in appropriate public forums and sessions designed to inform and educate the general public.

(2) Identify who obligated the Government beyond his or her responsibility.

The failure to accept option year 3 was attributed to a multitude of factors, the fault of which should be jointly shared between the Office of Acquisition Management and the Office of Human Resources.

(3) Describe the pertinent facts and circumstances that caused the unauthorized commitment. Specifically answer, when, where and why.

Several OHR Contracting Officers Representatives with the Diversity Recruitment and Employee Services Division reported to me that OAM Contracting Officers were not responding to multiple requests to exercise contract options or to move forward with new RFQs. Therefore, on October 13, 2017, I emailed Michael Gilham, the Contracting Officer for the EPA headquarters Employee Assistance Program contract to find out why there had been no movement on issuing a request for quote on the new EAP contract, despite the OHR DRES COR having prepared and entered the Procurement Initiation Notice in the EPA's acquisition system, EAS, on May 31, 2017. At that time, Mr. Gilham informed me that his former Team Lead, Benita Jackson, no longer worked for OAM and that the procurement had not been assigned to him by his new Team Lead. Mr. Gilham suggested that I contact Ms. Jackson's replacement, Tracey Williams.

On October 13, 2017, I sent Ms. Williams an email inquiring about not only the EAP procurement, but four additional procurements for which no action had been taken: Sign Language Interpreting, Child Care Subsidy, the federal retirement and benefits calculator, and the Sign Language Captioning Contract. I provided Ms. Williams with a detailed chart containing the vendor name and contact information, the contract number, the assigned COR, the assigned CO, and what action OHR was requesting be taken. I followed up the email with a phone call to Ms. Williams further articulating that each of these actions were high priority because all of them were pending expiration but it was critical that the services on each contract continue without interruption.

Despite the fact that the PIN packages for both EAP and Sign Language Interpreting were entered into EAS by May 31, 2017 as directed by OAM, and my email and phone call to OAM Team Lead Tracey Williams on October 13, 2017, OAM did not begin working on either contract until former Human Resources Director Linda Gray and OHR Acquisition Champion Dan Coogan got involved and held meetings with OAM staff to discuss the statuses of each procurement.

Ultimately, the request to exercise option year 3 for Sign Language Captioning was not acted upon, resulting in unauthorized commitments for January 2018, February 2018, and March 2018. The OHR COR for the contract did not find out that the request to exercise option year 3 did not occur until March 2018 when they received the January 2018 invoice.

OHR also acknowledges that the DRES COR assigned to this contract could have and should have followed up with Ms. Williams between October and December 2017 to ensure that the option was being exercised; however, OHR was transitioning a new COR onto the contract at this time and neither the outgoing COR nor the incoming COR realized the option had not been exercised as requested until after the new invoice was received.

(4) Describe any harm to the government, if the supplies/services had not been obtained.

The CART/Remote CART support service provided by Ad Astra is critical to address the needs of the EPA's Deaf/HH employees as required by the Rehabilitation Act of 1973. Specifically, captioning is required to make audio and audiovisual information and communication accessible to the EPA's Deaf/HH employees and members of the public as an accommodation to ensure equal access, an equal opportunity to participate in work activities, and effective communication. It is imperative that the EPA Deaf/HH employees at important work-related staff meetings, training sessions, safety talks, discussions on work procedures, policies or assignments so that the D/HH employee can understand what is occurring at any and every crucial time in the employees' career.

(5) Describe what your Division will do to prevent this occurrence in the future.

Our recommendation is that OAM put processes and procedures in place to ensure that CORs and the vendors are notified when a new CO takes over a contract. Additionally, we recommend that OAM begin consistently using a system to update Program Offices regarding the timelines for procurements, especially, when timelines changes or will be missed.

OHR CORs in DRESO have begun working more closely with OHR's Acquisition Champion, Dan Coogan, to notify him promptly when options are not exercised and when timelines for major procurements have slipped.

(6) Provide the contractor's itemized invoice or sales slip, if it is available to you.

Invoices are attached.

(7) Provide a justification for the source you selected.

Ad Astra has been providing excellent CART/Remote CART support services since 2015, and their continued support services are needed. Ad Astra has extensive experience and intimate knowledge of EPA's work. They are familiar with the terminology and acronyms often used at the EPA's events and with the EPA's communication technology/capability. Additionally, Ad Astra's CART writers are equipped with microphones to voice what a Deaf/HH consumer types; however, many EPA Deaf/HH consumers use their own voice and attend Adobe Connect meetings. Ad Astra already has the capability to provide CART in Adobe Connect caption pods which allow the user to view the captioned text on the same screen as the presentation and/or the presenter. Ad Astra also consistently has demonstrated the ability to respond to frequent last-minute requests by Deaf/HH employees who use CART services instead of Sign Language Interpreters to attend and fully participate in last minute work-related meetings. Ad Astra has a user-friendly system for the EPA deaf and hard of hearing employees when requesting services.

I want to restore our positive working relationship with your staff and I want to avoid further miscommunications. OHR is committed not only to reaching a mutually acceptable resolution, but also to working constructively and proactively going forward to avoid any further misunderstandings.

We respectfully request ratification of the unauthorized commitment and payment of the invoices, once submitted, for the services rendered by Ad Astra for the Sign Language Captioning Services.

You may direct questions regarding this memorandum to my attention by contacting me, at cunningham.bisa@epa.gov, or at (202) 564-6635.

cc: Wesley Carpenter
Tania Allen
Sharon Hilliard
Piyachat Terrell
Patrick Yellin
Dan Coogan



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL - 9 2018

OFFICE OF WATER

MEMORANDUM

SUBJECT: Request for Ratification of an Unauthorized Purchase for Furniture Breakdown and Removal from Room 2369-A, WJC East

FROM: Robert Stevens, Director
Management and Operation Staff

THRU: Benita Best-Wong
Acting Principal Assistant Deputy Administrator

TO: Keith Stewart, Director
Headquarters Procurement Operations Division (3803R)
Office of Acquisition Management

This memorandum is to request the ratification and approval of payment to the vendor PriceModern for \$701.28.

Detailed Explanation of Purchase

PriceModern was hired to breakdown and remove furniture from rooms 2369A and 2369E WJC East to make room for the new political hires.

Two quotes from this company was sent to Cheryl Murray from Eric Taylor in the amounts of \$1,139.58 for room 2369E and \$701.28 for room 2369A. The quotes were then given to the card holder Wanda Fields to complete a PR. The PR was originally completed with both quotes included with a total of \$1,848.86. When the PR was submitted to me for approval, I asked Wanda to remove the \$701.28 because the room was still occupied and we did not want to displace the employee. When the office was informed that the PR was funded Wanda was out of the office on annual leave and the PR was given to another card holder. Weeks later when the invoice was forwarded to Wanda to make payment for the second invoice she in error did not realize that the amount was not added back in and completed the payment.

It was discovered during her attempt to allocate the charge she discovered that the funds were not available. Upon this discovery, she immediately brought this to the attention of her supervisor/approving official Miriam Wiggins-Lewis.

Steps to Prevent This From Happening

We understand that this is a serious matter. To prevent a future occurrence of an unauthorized purchase, the following steps will be taken:

1. All of the purchase card holders will be aware of the status of the purchase order and assure that the funding is available prior to completing any purchases.
2. If there are any changes or amendments that need to be made to the purchase request the changes will be approved by management
3. A meeting will be held among the Approving Official and the purchase card holders to review the correct procedures to follow while completing purchases
4. We will be developing an in-house Standard Operating Procedures which when finalized, we will share with the entire MOS staff as well as our customer-base within the Office of Water

The OW wants to continue to keep a positive history of working with the OAM and want to make things right. We therefore request ratification of the unauthorized obligation in order to pay the vendor PriceModern for the services received.

Thank you for your consideration of this request. If you have any questions, please notify me at 202-564-5703.

Attachments

Copy of funded PR

Copy of both invoices from the vendor



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 11 2019

OFFICE OF
RESEARCH AND DEVELOPMENT

MEMORANDUM

SUBJECT: Ratification of an Unauthorized Procurement
Mediation Services for the Office of Research and Development

FROM: Elizabeth Blackburn, Chief of Staff *Elizabeth Blackburn*
Office of Research and Development/Immediate Office of the Assistant
Administrator

THROUGH: Christopher S. Robbins, Deputy Assistant Administrator for Management,
Office of Research and Development *Christopher Robbins*

TO: Keith Stewart, Director
Headquarters Acquisition Division (HQAD)
Office of Acquisition Solutions (OAS)

The Office of Research and Development's (ORD), Sustainable and Healthy Communities Research Program within the immediate office of the Assistant Administrator for ORD (SHCRP) needs to ratify an unauthorized commitment made pursuant to an Equal Employment Opportunity (EEO) complaint filed by an EPA employee.

Due to the confidential nature of the EEO process, much of the information presented below will be generic to keep the identity of the complainant confidential per EEO requirements.

If this ratification is approved, a simplified acquisition procurement action for mediation services at a total funding level of \$1,450 will be issued to Roy J. Baroff, Dispute Resolution Services in support of the mediation which occurred on November 8, 2018.

(1) State if the supplies/services were necessary and if they were for the benefit of the Government.

The referenced mediation services were necessary and were for the benefit of the government.

(2) Identify who obligated the Government beyond his or her responsibility.

Michael Slimak, PhD., National Program Director (NPD) for SHCRP within the Immediate Office of Assistant Administrator (IOAA).

(3) Describe the pertinent facts and circumstances that caused the unauthorized commitment. Specifically answer, when, where and why.

Timeline:

June 2018 – complainant was issued a formal directed re-assignment to an EPA remote facility outside of ORD's Headquarters Office in Washington D.C., Research Triangle Park (RTP), NC and Cincinnati, OH. The complainant was to report to the new duty station in September 2018.

August 2018 – Complainant requested a reasonable accommodation to prevent the transfer. The essence of the reasonable accommodation request: *To not be re-located to the new duty station for serious health and financial reasons. Not to be fired or demoted for refusing to move. To be reassigned to one of the vacant SES positions in RTP.*

August 28, 2018 – Reasonable accommodation request denied.

Sep 21, 2018 – Complainant requests another consideration for reasonable accommodation. The second request was also denied.

Oct 1, 2018 – Complainant requested a 60-day extension of the directed reassignment; an extension was granted to early December.

Oct 19, 2018 – Complainant filed an informal EEO complaint with Area Director, Office of Civil Rights - RTP, claiming age discrimination.

Oct 31, 2018 – Complainant requests a third reasonable accommodation to prevent the reassignment. This request was also denied.

Nov 1, 2018 – A decision by Norwood Dennis (EPA/EEO), the EPA Office of General Counsel, Labor and Employee Relations Office (LER), and ORD Deputy Assistant Administrator for Management Chris Robbins to mediate the EEO complaint since the complainant was to report to the new duty station December 3.

Nov 2, 2018 – Norwood Dennis advised Mr. Slimak that a purchase request for approximately \$1,400 would likely be required.

Nov 1 – Nov 8, 2018 – the EEO office, OGC, Mediator and others work on scheduling the mediation.

Nov 8, 2018 – Mediation occurred with outside mediator, Roy J. Baroff, Dispute Resolution Services.

Nov 8, 2018 – Roy J. Baroff submits an invoice for \$1,450.

Nov 13, 2018 – Michael Slimak requested that a PR is initiated to pay the invoice.

Handling this EEO complaint and resulting mediation had an extremely tight turn around to both answer the complaint and avoid the termination of an EPA employee. Additionally, coordination of the participants in the mediation added a level of urgency trying to pin down a workable date that would occur prior to the December 3 duty station assignment. While Mr. Slimak was aware that funding would be necessary to pay the mediator, he mistakenly assumed that the EEO office had an existing contract that was sufficiently funded to cover the costs of the mediator. His assumption was that his office would issue a PR to the EEO contract after the mediation was complete to "reimburse" what he thought was a funded contract. On November 13, 2018, Mr. Slimak requested someone on his staff to prepare a PR to make the contract whole. It was later determined that Mr. Slimak misunderstood the funding situation and the ratification process was started.

(4) Describe any harm to the government, if the supplies/services had not been obtained.

The complainant was to report to the new duty assignment effective December 3 or be terminated. Had ORD not gone to mediation the complainant would have been terminated which on advice of EPA counsel, would likely result in a lawsuit. A lawsuit would have been expensive both financially and the in the amount of time spent to defend the decision to terminate. If the lawsuit was lost, additional costs of the complainant's legal fees and reparations would be incurred.

(5) Describe what your Division will do to prevent this occurrence in the future.

While this was primarily an incident of poor communication, ORD approaches the issue of unauthorized commitments seriously within the IOAA and a memo to all employees (copy attached) has been issued. IOAA also presents unauthorized commitment training at least bi-annually.

For this specific instance, the following steps have been or will be taken:

- The NPD has been advised by ORD Senior management regarding the importance of observing procurement lead times. He will be more diligent when submitting procurement packages in the future.
- The NPD will, in the future, not allow work to begin until confirmation of actual award is obtained from the CO.
- The NPD has been reminded and understands the importance of the Anti-Deficiency Act, apparent authority versus actual authority and FAR Part I.
- The NPD now has a better understanding of the importance of timely handling of procurement matters.
- Mandatory training on unauthorized commitments will presented directly to Mr. Slimak to help prevent future occurrences (<http://intranet.ord.epa.gov/administrative/extramural-services/policy-guidance-and-training>).

The NPD has offered his apologies for the oversight, and there was no intent to circumvent proper contractual procedures.

(6) Provide the contractor's itemized invoice or sales slip, if it is available to you.

Attached

(7) Provide a justification for the source you selected.

While the cost of the Mediator is well below the Micro-purchase threshold of \$10,000 established in FAR Part 2 (10 U.S.C. 2338), the selection was made based on both the recommendation of the EEO office in RTP as well as the availability of the mediator.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 12 2019

MEMORANDUM

Office of
International and
Tribal Affairs

SUBJECT: Ratification Unauthorized Procurement of Courier Services under
Purchase Order EP-G14H-00878

FROM: *Katrina Cherry*
Katrina Cherry, Director
Office of Management and International Services

TO: Keith Stewart, Division Director
Chief of the Contracting Office (CCO)/Ratifying Official
OAM/HPOD and SRRPOD

In accordance with EPAAR Subpart 1501.6 Contracting Authority and Responsibilities, the purpose of this memorandum is to provide notification of a ratification request for an unauthorized commitment. We are providing you with the requested justification in order to ratify the contract for the procurement of Courier Services to Washington Express Service under Purchase Order EP-G14H-00878.

We have maintained a contract with the Washington Express Courier Service for the last several years and during that time we have been especially observant of the level of funding as well as the performance period. However, the Project Officer was in possession of two (Amendment of Solicitation/Modification of Contract) Standard Form 30 with the maximum expiration dates of 12/3/2018, and 3/9/2019. After several emails and miscommunication between the project officer and OAM to extend the contract, it was determined that the contract was not extended and had in fact expired on 12/3/2018. Once discovered, the project officer immediately worked with the Office of Acquisition Solution to resolve the issue. Steps have been taken to start a 1-year service agreement. In the future, we will make a re-occurring calendar note in order to prevent any future ratification.

This contract provides a vital service to the Agency through managing the expeditious transport of Agency requests for employee passports, visas and other important travel documentation couriered to the Passport Office and Foreign Embassies within the metropolitan area. Therefore, the services and expenditures stated in the invoice were necessary in order not to prevent or delay the official government business conducted by the travelers.

Thank you in advance for your attention and assistance in this matter. If any additional information is needed, please contact Pamela Rhones-Younger on (202) 564-6631

Attachments (vendor itemized invoices)

cc: Jody Gosnell
Sheila Dolan